

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

UNITED STATES OF AMERICA	:	CRIMINAL NO. _____
v.	:	DATE FILED: _____
SALVATORE MERLINO	:	VIOLETIONS: 18 U.S.C. § 1001
KEVIN BECKETT	:	(False statements to federal agencies- 4 Counts)

INDICTMENT

COUNT ONE

THE GRAND JURY CHARGES THAT:

At all times relevant to this indictment:

1. Defendants SALVATORE MERLINO and KEVIN BECKETT were employed as police officers with the Philadelphia Police Department Intensive Drug Investigation Squad ("IDIS"), a plainclothes unit responsible for investigating narcotics trafficking in and around Philadelphia.
2. Lieutenant Kevin Bethel, Sergeant Herberto Aponte and Police Officer Keith Elliott were employed as police officers with the Philadelphia Police Department ("PHPD") and also were assigned to IDIS. Police Officer Anthony Ragin was employed as a police officer with the PHPD and was assigned to the canine unit.
3. The United States Attorney's Office for the Eastern District of Pennsylvania, a federal agency in the Department of Justice, reviews significant narcotics seizures and arrests made by the PHPD, including arrests made by officers assigned to the IDIS, for possible federal criminal prosecution.
4. The Federal Bureau of Investigation ("FBI") is a federal agency in the Department of Justice.
5. Defendants SALVATORE MERLINO and KEVIN BECKETT, as Philadelphia police officers, had a duty to fully disclose and be truthful to the United States

Attorney's Office and FBI the circumstances and facts relating to narcotics seizures and arrests that were being considered for possible federal criminal prosecution.

THE OCTOBER 4, 2002 NARCOTICS SEIZURE

6. On or about October 4, 2002, Lt. Kevin Bethel received information from a confidential informant that there were two suspicious boxes shipped from Hidalgo, Texas for delivery by United Parcel Service ("UPS") to 4363 North 9th Street, Philadelphia, Pennsylvania.

7. On or about October 4, 2002, Lt. Bethel assigned Sgt. Aponte to investigate the information received from the confidential informant. Sgt. Aponte and defendants SALVATORE MERLINO and KEVIN BECKETT drove to the vicinity of American Street and Hunting Park Avenue in Philadelphia to investigate the information.

8. Once in that vicinity, Sgt. Aponte and defendants SALVATORE MERLINO and KEVIN BECKETT approached a UPS truck and seized two boxes without a search warrant. Each box, addressed for delivery to 4363 North 9th Street, Philadelphia, PA 19140, was approximately 18 inches by 18 inches. One of the boxes had been opened prior to the arrival of Sgt. Aponte and defendants MERLINO and BECKETT.

9. Sgt. Aponte and defendants SALVATORE MERLINO and KEVIN BECKETT put the seized boxes in their vehicle and drove to Front Street and Hunting Park Avenue in Philadelphia where they met Police Officer Anthony Ragin from the Philadelphia Police Department Canine Unit.

10. The boxes were placed on the ground and Officer Ragin walked JT, his canine partner trained to detect the presence of illegal narcotics, around the boxes. JT responded positively for the presence of narcotics.

11. Sgt. Aponte and defendants SALVATORE MERLINO and KEVIN BECKETT then put the boxes back in the vehicle and returned to headquarters to obtain a search warrant for the seized boxes.

THE FALSE STATEMENTS

12. On October 4, 2002, Lt. Bethel assigned Police Officer Keith Elliott to prepare the paperwork to obtain the search warrant for the above boxes. Officer Elliott was required to prepare a Philadelphia Police Department Form 49, which is a standard police report summarizing the facts of an investigation.

13. Prior to preparing the Form 49, Officer Elliott spoke to defendant SALVATORE MERLINO.

14. Defendant SALVATORE MERLINO caused Officer Elliott to prepare a false official police report, which failed to fully disclose the true circumstances of the October 4, 2002 seizure of the boxes from the UPS truck. Defendant MERLINO falsely stated to Officer Elliott that JT, the canine officer, had reacted positively for the presence of narcotics on the two packages while the packages were inside the UPS delivery truck. Defendant MERLINO failed to fully disclose the true circumstances of the October 4, 2002 seizure of the two boxes, including the fact that one of the boxes had been previously opened and the fact that the boxes had been removed from the UPS truck and placed in the police vehicle prior to the positive response by the canine officer.

15. Defendant SALVATORE MERLINO gave this false information to Officer Elliott for the additional purpose of Officer Elliott swearing under oath an affidavit of probable cause for a search warrant.

16. On or about October 4, 2002, a search warrant was obtained, and the boxes were found to contain 23 kilograms of cocaine. The boxes were later delivered to 4363 North 9th Street and accepted by Luis Vazquez who was arrested and charged with possession of a controlled substance.

17. The United States Attorney's Office sought to prosecute the case against Luis Vazquez in United States District Court for violations of federal drug laws. In preparation for this prosecution and to ensure the lawfulness of the search and seizure, an Assistant United

States Attorney reviewed, among other things, the police reports detailing the circumstances of the seizure on October 4, 2002, including the false Form 49. Relying on, among other things, the facts set forth in the police reports, the Assistant United States Attorney presented the case against Luis Vazquez to a federal grand jury.

18. On or about August 27, 2003, a grand jury sitting in the Eastern District of Pennsylvania returned an indictment charging Luis Vazquez with a violation of Title 21, United States Code § 841(a)(1), possession of cocaine with intent to distribute. The trial of United States v. Luis Vazquez was scheduled to begin in United States District Court on January 12, 2004.

19. On or about January 5, 2004, an Assistant United States Attorney assigned to prosecute Luis Vazquez interviewed defendant SALVATORE MERLINO in preparation for MERLINO's testimony at the trial of United States v. Luis Vazquez. Defendant MERLINO falsely told the Assistant United States Attorney that the information contained in the Form 49 regarding the seizure of the boxes and location where the canine officer reacted positively for the presence of narcotics was true, when defendant MERLINO knew that information to be false.

20. On or about January 5, 2004, the Assistant United States Attorney assigned to prosecute Luis Vazquez interviewed defendant KEVIN BECKETT in preparation for BECKETT's testimony at the trial of United States v. Luis Vazquez. Defendant BECKETT falsely told the Assistant United States Attorney that the information contained in the Form 49 regarding the seizure of the boxes and location where the canine officer responded positively for the presence of narcotics was true, when defendant BECKETT knew that information to be false.

21. On or about January 9, 2004, as a direct result of the false information which defendant SALVATORE MERLINO caused to be provided to prosecutors concerning the October 4, 2002 seizure and identification of the boxes and defendants MERLINO and KEVIN BECKETT's subsequent false statements made in preparation for trial, the federal prosecution was jeopardized and detrimentally effected, in that, the United States Attorney's Office, upon

learning that defendants MERLINO and BECKETT had provided false information, could not proceed with the trial of United States v. Luis Vazquez and subsequently moved to dismiss a count in the Vazquez case and dismissed the indictment in United States v. William Harris because of the lack of credibility of defendants MERLINO and BECKETT.

22. On or about January 9, 2004, FBI agents investigating allegations that false statements had been made to the Assistant United States Attorney interviewed defendant SALVATORE MERLINO. Defendant MERLINO repeated his false statements by stating that all of the information related to the seizure was contained in the police report, when defendant MERLINO knew that information in the police report was false.

23. On or about January 9, 2004, FBI agents investigating allegations that false statements had been made to the Assistant United States Attorney interviewed defendant KEVIN BECKETT. Defendant BECKETT repeated his false statements by stating that the canine unit was called to the scene and showed a positive response for narcotics on the two boxes at the scene, when defendant BECKETT knew that the canine unit did not show a positive response for narcotics on the two boxes at the scene, but rather at a different location.

24. On or about January 5, 2004, at Philadelphia, in the Eastern District of Pennsylvania, defendant

SALVATORE MERLINO,

in a matter within the jurisdiction of the executive branch of the government of the United States, knowingly and willfully made material false statements and representations to an Assistant United States Attorney who was assigned to investigate and prosecute the narcotics trafficking case against Luis Vazquez. Defendant MERLINO stated and represented that two packages were inside a UPS truck when the canine officer JT positively responded for the presence of narcotics, a statement that defendant MERLINO then well knew and believed, was false, because defendant MERLINO knew that the packages which later were determined to contain cocaine previously had been removed by him from the UPS truck without a warrant.

In violation of Title 18, United States Code, Section 1001.

COUNT TWO

1. Paragraphs 1 to 23 of Count One are incorporated here.
2. On or about January 5, 2004, at Philadelphia, in the Eastern District of Pennsylvania, defendant

KEVIN BECKETT,

in a matter within the jurisdiction of the executive branch of the government of the United States, knowingly and willfully made material false statements and representations to an Assistant United States Attorney who was assigned to investigate and prosecute the narcotics trafficking case against Luis Vazquez. Defendant BECKETT stated and represented that two packages were inside a UPS truck when the canine officer JT positively responded for the presence of narcotics, a statement that defendant BECKETT then well knew and believed, was false, because defendant BECKETT knew that the packages which later were determined to contain cocaine previously had been removed by him from the UPS truck without a warrant.

In violation of Title 18, United States Code, Section 1001.

COUNT THREE

1. Paragraphs 1 to 23 of Count One are incorporated here.

2. On or about January 9, 2004, at Philadelphia, in the Eastern District of Pennsylvania, defendant

SALVATORE MERLINO,

in a matter within the jurisdiction of the executive branch of the government of the United States, knowingly and willfully made material false statements and representations to Special Agents of the Federal Bureau of Investigation, both of whom were assigned to investigate the narcotics trafficking case against Luis Vazquez. Defendant MERLINO stated and represented that the information related to the seizure was contained in the police report, a statement that defendant MERLINO then well knew and believed, was false, because defendant MERLINO knew that the police report falsely stated that the canine officer positively responded to the two boxes when the boxes were inside the UPS truck when, in fact, the packages which later were determined to contain cocaine previously had been removed by him from the UPS truck without a warrant.

In violation of Title 18, United States Code, Section 1001.

COUNT FOUR

1. Paragraphs 1 to 23 of Count One are incorporated here.

2. On or about January 9, 2004, at Philadelphia, in the Eastern District of Pennsylvania, defendant

KEVIN BECKETT

in a matter within the jurisdiction of the executive branch of the government of the United States, knowingly and willfully made material false statements and representations to Special Agents of the Federal Bureau of Investigation, both of whom were assigned to investigate the narcotics trafficking case against Luis Vazquez. Defendant BECKETT stated and represented that two packages were at the scene of the UPS truck when the canine officer JT positively responded for the presence of narcotics, a statement that defendant BECKETT then well knew and believed, was false, because defendant BECKETT knew that the packages which later were determined to contain cocaine previously had been removed by him from the UPS truck without a warrant.

In violation of Title 18, United States Code, Section 1001.

A TRUE BILL:

FOREPERSON

PATRICK L. MEEHAN
United States Attorney